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Phytosanitary Control of Imported Means of Transportation

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Sanitary/Phytosanitary/Food Safety

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Report Highlights:

The Russian Federal Antimonopoly Service (RFAS) ruled that the Federal Service for Veterinary and Phytosanitary Surveillance (VPSS) and the Federal Customs Service (FCS) of the Russian Federation violated Russia's anti-monopoly legislation by developing and implementing a list of products subject to phytosanitary inspection and control. Many believe VPSS may only enforce, not initiate such legislation. The recent VPSS/FCS's list covers a number of plant, food and other commodities which require VPSS's import quarantine permit (IQP) for imports to the Russian Federation. The list also includes used cars, trucks and other means of transportation.

General Information:

Beginning July 15, 2009, imports of plant products and some other commodities are regulated by a List of Imported Quarantine Products (Materials, Cargoes) That Are Subject to the State Quarantine Phytosanitary Control. The list was issued by the Federal Service for Veterinary and Phytosanitary

Surveillance (VPSS) and was agreed upon with the Deputy Head of the Federal Customs Service (FCS) of the Russian Federation [1]. The list lifted phytosanitary control requirements for some processed products of plant origin, but at the same time it expanded the VPSS's controlling authority to the used cars, trucks and other means of transportation (Customs code 87).

According to mass media, the VPSS's requirement to require IQP for imports of used means of transportation hampered imports and was used to provide additional income to VPSS. In the beginning of August [2] the Federal Antimonopoly Service of the Russian Federation (RFAS) initiated proceedings against the VPSS, and the Federal Customs Service (FCS) of the Russian Federation on elements of violation of Article 11 of the Federal Law "On Protection of Competition" which prohibits unjustified barriers to business. RFAS considered that VPSS/FCS's requirements concerning means of transportation will lead to unfair competition as it increases costs and is only imposed on imports. On August 30 the RFAS's Commission confirmed that VPSS/Customs violated Russian anti-monopoly legislation. Now VPSS can either agree to Commission's decision or to challenge it to a court within the next 3 months.

RFAS Commission also accused VPSS of usurping the power of the Ministry of Agriculture to issue normative acts. VPSS, by its status, is a controlling-surveillance body which has no legal authority to issue regulations.

According to mass media, importers of used cars consider this decision their first victory. However, the previous RFAS's attempts to restrict the power of VPSS ended in nothing. Several years ago RFAS accused VPSS in monopolizing quality certificates for grain and grain products. Courts of all levels confirmed RFAS's decision that VPSS shall stop monopoly practices, but still VPSS's affiliated organizations are the only ones which issue "valid" certificates on quality of grain and grain products, and neither exports nor imports of grain and grain products are allowed without these certificates.

For more information on the RFAS decision: http://www.fas.gov.ru/news/n_26210.shtml

^[1] For more information see GAIN report RS9048 Imported Products Under Quarantine and Phytosanitary Control

^[2] The information was released on August 7, 2009: <http://www.tks.ru/news/nearby/2009/08/07/0002/print>